

United States
Circuit Court of Appeals
For the Ninth Circuit.

HARRISON H. KEENE,
Plaintiff in Error,
vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of the
Northern District of California, First Division.

Filed

FEB 23 1915

F. D. Monckton,
Clerk.

United States
Circuit Court of Appeals
For the Ninth Circuit.

HARRISON H. KEENE,
Plaintiff in Error,
vs.
THE UNITED STATES OF AMERICA,
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Northern District of California, First Division.

INDEX TO THE PRINTED TRANSCRIPT OF
RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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UNITED STATES OF AMERICA.

*District Court of the United States, Northern Dis-
trict of California.*

CLERK'S OFFICE.

No. 5421.

UNITED STATES

vs.

HARRISON H. KEENE.

Praeipe [for Transcript of Record].

To the Clerk of Said Court:

Sir: Please prepare a certified copy of
Judgment-roll.

Motion in Arrest of Judgment.

Petition for Writ of Error.

Order Allowing Writ of Error.

Citation Writ of Error.

Bond for Costs Writ of Error.

Original Writ of Error.

Assignment of Errors.

Praeipe for Copies.

MARSHALL B. WOODWORTH,

Attorney for Defendant.

[Endorsed]: Filed Oct. 9, 1914. W. B. Maling,
Clerk. By T. L. Baldwin, Deputy Clerk. [1*]

*Page-number appearing at foot of page of original certified Record.

Indictment.

*In the District Court of the United States, in and for
the Northern District of California, First
Division.*

Violation Act June 25, 1910, White Slave Traffic Act.

At a stated term of said Court begun and holden at the City and County of San Francisco, within and for the Northern District of California, on the first Monday of November in the year of our Lord one thousand nine hundred and thirteen,

The Grand Jurors of the United States of America, within and for the State and District aforesaid, on their oaths present: THAT

HARRISON H. KEENE

hereinafter called the defendant, heretofore, to wit, on the third day of May in the year of our Lord one thousand nine hundred and thirteen, did unlawfully, wilfully, knowingly and feloniously procure and obtain, and cause to be procured and obtained, and aid and assist in procuring and obtaining transportation on a steamship known as and named the "Alliance," a steamship owned by the North Pacific Steamship Company, a corporation, on board the said steamship "Alliance" so belonging to the said steamship company, at the City of Eureka, County of Humboldt, State and Northern District of California, for passage between the said City of Eureka, County of Humboldt, State and Northern District of California, and the City of Portland in the State of Oregon; that the said steamship "Alliance" is operated

between the said points, to wit, the City of Eureka, California, and the City of Portland, Oregon, aforesaid, and the said transportation was procured and obtained to be used by a certain woman, to wit, one Myrtle Kellett, in traveling on said line between the said State of California and the State of [2] Oregon in interstate commerce, whereby said woman was then and there transported in interstate commerce, to wit, from Eureka, California, to Portland, Oregon, on board the said steamship "Alliance" so owned and operated by the North Pacific Steamship Company, with the intent and purpose on the part of the said defendant that said woman should engage in the practice of debauchery and for other immoral purposes, to wit, that she should live and cohabit with him, the said defendant, in Portland, Oregon, as his concubine.

That said North Pacific Steamship Company was and is, as defendant then and there well knew, a common carrier engaged in the business of transporting and carrying passengers in interstate commerce, to wit, from the State of California to the State of Oregon and that said steamship "Alliance" belonging to said company did then and there act in such capacity, to wit, in the capacity of carrying passengers in interstate commerce in taking said woman from the State of California to the State of Oregon.

AGAINST the peace and dignity of the United States of America and contrary to the form of the statute of said United States of America in such case made and provided.

SECOND COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

HARRISON H. KEENE

hereinafter called the defendant, heretofore, to wit, on the third day of May in the year of our Lord one thousand nine hundred and thirteen, at Eureka, in the County of Humboldt, in the State and Northern District of California, then and there being, did then and there willfully, unlawfully and feloniously, knowingly persuade, induce and entice, and cause to be persuaded, induced and enticed, [3] and aid and assist in persuading, inducing and enticing, a certain girl, to wit, one Myrtle Kellett, to go from said City of Eureka, in the State and Northern District of California, to Portland, in the State of Oregon, in interstate commerce, by water over the line of the North Pacific Steamship Company, to wit, on board the steamship "Alliance," for the purpose of debauchery and for an immoral purpose, to wit, that she, the said Myrtle Kellett, should be and become the concubine and mistress of the said defendant;

That the North Pacific Steamship Company is and was, as defendant then and there well knew, a common carrier engaged in the business of transporting and carrying passengers in interstate commerce, to wit, from the State of California to the State of Oregon, and the steamer "Alliance" so owned and operated by the North Pacific Steamship Company did act in such capacity in bringing said woman, Myrtle Kellett, from the State of California to the State of Oregon.

AGAINST the peace and dignity of the United States of America and contrary to the form of the statute of said United States of America in such case made and provided.

BENJ. L. McKINLEY,
United States Attorney.

Names of witnesses appearing before Grand Jury:
Lee Kellett, Chas. W. Backstedt, F. G. Strauss.

[Endorsed]: A True Bill. J. G. Martin, Foreman
Grand Jury. Presented in Open Court and Filed
Dec. 30, 1913. W. B. Maling, Clerk. By Francis
Krull, Deputy Clerk. [4]

At a stated term of the District Court of the United States of America for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 19th day of January in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable M. T. DOOLING, Judge.

No. 5421.

UNITED STATES

vs.

HARRISON H. KEENE.

Plea.

The defendant herein being present in open court, said defendant then and there pleaded not guilty to the indictment herein against him, which said plea was by the Court ordered and is hereby entered. [5]

[Minutes of Trial—March 16, 1914.]

At a stated term of the District Court of the United States of America, for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 16th day of March in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable M. T. DOOLING, Judge.

No. 5421.

UNITED STATES

vs.

HARRISON H. KEENE.

The defendant herein being present in open court with his attorney, Frank McGowan, Esqr., and Thos. H. Selvage, Asst. U. S. Atty., appearing for the Government by the Court ordered that the trial of this case do now proceed. By the Court ordered that an attachment issue for Myrtle Cunningham, a defaulting witness herein. The following named jurors were duly drawn, sworn, examined, accepted and impanelled to try this case, viz.: K. H. Plate, Dan R. McNeil, Edward McGattigan, Leroy W. Jackson, D. H. Lohsen, Dixwell Hewitt, Wm. S. Hanbridge, C. M. Volkman, Thomas Dillon, P. A. Dinsmore, George L. Center and D. C. Dorsey.

Alfred P. Hampton a juror drawn was by the Court excused for cause. The following named jurors drawn were upon peremptory challenge by the Government excused, viz.: Irving H. Kahn, Richard J. Welch and C. R. Johnson, Mr. Selvage stated the

case and called H. L. Gorham, Mrs. V. E. Pruitt, F. G. Strauss, E. V. Farmer, Grace Kellett, Lee Kellett, Joseph R. H. Jacoby, Geo. B. Davenpeck, Arthur C. Burton, who were each duly sworn and examined on behalf of the United States, and introduced in evidence certain exhibits which were marked United States exhibits and number 1 to 9 inclusive. The further trial of this case was then continued until to-morrow at 10 o'clock A. M. [6]

[Minutes of Trial—March 17, 1914.]

At a stated term of the District Court of the United States of America, for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Tuesday, the 17th day of March in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable M. T. DOOLING, Judge.

No. 5421.

UNITED STATES

vs.

HARRISON H. KEENE.

The defendant herein with his counsel, counsel for the Government and the jury sworn to try the case being present in open court. The further trial of this case was resumed. Mr. Selvage recalled Francis Kellett, F. G. Strauss and Lee Kellett for further examination and called Charles W. Backstedt, H. J. Martin, Paul Arnrich, who were each duly sworn and examined on behalf of the Government. The Gov-

ernment here rested its case.

Mr. McGowan called Walter Johnson, James Grant, Harrison H. Keene, who were each duly sworn and examined as witnesses on behalf of defendant. Mr. Preston, U. S. Atty., recalled Lee Kellett, for further examination. The case was then argued by respective counsel and thereupon the Court charged the jury, who at 4:35 o'clock P. M. retired to deliberate upon their verdict, and at 5:20 o'clock P. M. returned into court with the following verdict in writing: "We, the jury, find Harrison H. Keene, the defendant at the bar Guilty on the first count of the indictment, and not guilty on the second count of the indictment. G. L. Center, Foreman." By the Court ordered that said verdict be and the same is [7] hereby recorded, and as so recorded the same was read to the jurors, who were each asked if that was his verdict and each answered that it was. Further ordered that defendant appear for judgment on March 21, 1914. Further ordered that the bail of defendant be fixed in the sum of \$5,000, pending judgment. Further ordered that defendant be remanded to the custody of the U. S. Marshal. [8]

*In the District Court of the United States, in and
for the Northern District of California.*

No. 5421.

THE UNITED STATES OF AMERICA

vs.

HARRISON H. KEENE.

Verdict.

We, the Jury, find HARRISON H. KEENE, the prisoner at the bar, Guilty on the First count of the Indictment, and NOT GUILTY on the Second count of the Indictment.

G. L. CENTER,
Foreman.

[Endorsed]: Filed Mch. 17, 1914, at 5 o'clock and 20 minutes P. M. W. B. Maling, Clerk. By Francis Krull, Deputy Clerk. [9]

[Order Denying Motion for a New Trial, etc.]

At a stated term of the District Court of the United States of America, for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 1st day of April, in the year of our Lord, one thousand nine hundred and fourteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 5421.

UNITED STATES OF AMERICA

vs.

HARRISON H. KEENE.

The defendant, being present in person and with his attorney, F. A. McGowan, Esq., United States Attorney, John W. Preston Esq., moved the Court for judgment upon the verdict of Guilty heretofore

entered herein. The defendant thereupon filed a motion for a new trial and made a motion for arrest of judgment. After hearing counsel for the respective parties, the Court ordered that said motions be, and the same are hereby denied. Thereupon no cause being shown or appearing to the Court why judgment should not be pronounced herein, the Court ordered that said Harrison H. Keene, for the offense of which he stands convicted, be, and he is hereby sentenced to be imprisoned for the term of one (1) year in the County Jail of the County of Alameda, State of California. Further ordered upon motion of Mr. McGowan, that the execution of the judgment heretofore entered be stayed for the period of ten (10) days, and that defendant have thirty (30) days in which to prepare and serve his Proposed Bill of Exceptions: Further ordered that defendant be admitted to bail in the sum of Five Thousand (\$5,000.00) Dollars, pending the determination of said [10] appeal. It appearing to the Court that Mrs. C. B. Cunningham, a defaulting witness in this case, was present in court, and on motion of John W. Preston, said Mrs. Cunningham was called to the bar, and after being sworn was duly examined. It appeared to the Court that she had failed to obey a subpoena of this court, and it is therefore ordered and adjudged that said Mrs. C. B. Cunningham be, and she is hereby adjudged guilty of contempt of this court, and that she be punished by confinement in the County Jail of Alameda County, State of California, for the period of thirty (30) days. [11]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5421.

THE UNITED STATES OF AMERICA

vs.

HARRISON H. KEENE.

**Judgment on Verdict of Guilty on the First Count
of the Indictment.**

Convicted of Violation White Slave Traffic Act.

Now, on this 1st day of April, 1914, the defendant, Harrison H. Keene, in his own proper person and with his counsel, Frank McGowan, Esq., being present in open court, come John W. Preston, Esq., United States Attorney, and move the Court that judgment be pronounced in this cause; whereupon the defendant was duly informed by the Court of the nature of the Indictment filed on the 30th day of December, 1913, charging him with the crime of a violation of the White Slave Traffic Act; of his arraignment and plea of Not Guilty; of his trial and the verdict of the jury on the 17th day of March, A. D. 1914, to wit: "We, the Jury, find Harrison H. Keene, the prisoner at the bar, Guilty on the first count of the Indictment, and not guilty on the second count of the Indictment."

The defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him, and no sufficient cause being shown or appearing to the Court, and the Court having denied a motion for a new trial, and a motion in

arrest of Judgment, thereupon the Court rendered its judgment:

THAT WHEREAS, the said Harrison H. Keene, having been duly convicted in this court of the crime of a violation of the White Slave Traffic Act:

IT IS THEREFORE ORDERED AND ADJUDGED that the said [12] Harrison H. Keene be imprisoned for the term of one year, in the Alameda County Jail, Alameda County, California.

JUDGMENT ENTERED this 1st day of April, A. D. 1914.

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk. [13]

*In the District Court of the United States, for the
Northern District of California.*

No. 5421.

UNITED STATES

vs.

H. H. KEENE.

Clerk's Certificate to Judgment-roll.

I, W. B. MALING, Clerk of the District Court of the United States for the Northern District of California, do hereby certify that the foregoing papers hereto annexed constitute the Judgment-roll in the above-entitled action.

ATTEST my hand and the seal of said District Court, this 1 day of April, 1914.

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

[Endorsed]: Filed April 1, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [14]

*In the District Court of the United States, in and for
the Northern District of California, First Divi-
sion.*

No. 5421.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

HARRISON H. KEENE,
Defendant.

Motion in Arrest of Judgment.

The defendant in the above-entitled cause, before judgment or sentence, respectfully moves the Court, for error appearing on the face of the indictment and upon the face of the record, that judgment for the Government be arrested and withheld, and the conviction rendered herein declared null and void.

Said motion is based on the following grounds:

1st. That the Indictment herein, that is to say, the First Count, fails to state a public offense under the Act of June 25th, 1910, or any other Act or statute;

2nd. The specific acts set forth in the First Count of the Indictment, to wit, "that she should live and

cohabit with him, the said defendant, in Portland, Oregon, as his concubine," show that the acts charged therein are not a violation of said Act of June 25th, 1910.

WHEREFORE, defendant prays that said judgment be arrested and that no sentence be had therein.

FRANK McGOWAN,
Attorney for Said Defendant.

[Endorsed]: Filed April 2d, 1914, Nun Pro Tunc as of April 1st, 1914. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [15]

*In the District Court of the State of California, in
and for the Northern District of California,
First Division.*

THE UNITED STATES,

vs.

HARRISON H. KEENE,

Defendant.

Petition for Writ of Error.

HARRISON H. KEENE, the defendant in the above-entitled cause, feeling himself aggrieved by the judgment of the above-entitled court, entered upon the first day of April, 1914, whereby it was adjudged that the defendant be confined in the County Jail of Alameda County, State of California, for the term of one year, or until he be otherwise discharged, now comes through his attorneys and petitions said court for an order allowing him, the said defendant, to prosecute a writ of error to the United States Circuit Court of Appeals for the Ninth Circuit under

and according to the laws of the United States in that behalf made and provided; and that all further proceedings in this court be suspended, stayed and superseded until the determination of said writ of error by the United States Circuit Court of Appeals in and for the Ninth Circuit.

And your petitioner will ever pray, etc.

Dated: May 8th, 1914.

FRANK H. MCGOWAN,

MARSHALL B. WOODWORTH,

Attorneys for Defendant.

Due service and a copy of the within Petition for Writ of Error admitted this 9th day of May, 1914.

JNO. W. PRESTON,

U. S. Attorney.

[Endorsed]: Filed May 9, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [16]

In the District Court of the United States, in and for the Northern District of California, First Division.

No. 5421.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRISON H. KEENE,

Defendant.

Assignment of Errors.

Now comes the defendant in the above-entitled cause, by Marshall B. Woodworth, Esq., one of his attorneys, and specifies the following as the errors

upon which he will rely and which he will urge upon his writ of error in the above-entitled cause, to wit:

I.

The Court erred in not granting the motion in arrest of judgment, to which ruling the defendant then and there excepted.

II.

The Court erred in not holding that the Indictment herein, that is to say, the First count thereof, failed to state a public offense under the "White-slave traffic Act," or any other act or statute, to which the defendant then and there excepted.

III.

The Court erred in holding that the specific acts set forth in the First count of the Indictment, to wit: "that she should live and cohabit with him, the said defendant, in Portland, Oregon, as his concubine," showed that the acts charged therein are a violation of said "White-slave traffic Act," to which the defendant then and there excepted. [17]

IV.

The Court erred in not holding that the allegations contained in said first count of said Indictment were insufficient to sustain the judgment of conviction, and in not arresting the judgment of conviction on said first count, inasmuch as said first count of said Indictment did not set out any facts constituting such an offense or offenses as was intended by Congress to be prosecuted by virtue of the Act known as the "White-slave traffic Act," nor does the prevention and punishment of the acts alleged in said first count of said indictment fall within the scope of the

purpose for which that Act was intended and which the defendant is charged with having violated, in that there were no allegations in said first count of said Indictment to show that the defendant profited by, or expected to, or intended to, profit in, or share in any profit, ensuing or arising, in pursuance of the transportation set out in said first count of said indictment, to which ruling the defendant then and there excepted.

V.

The Court erred in not holding that the offenses alleged in said first count of said Indictment came solely within the police power of the State of California and of the State of Oregon, and that the District Court of the United States in and for the Northern District of California, First Division, could not assume jurisdiction thereof without violating Article 10 of the Amendments to the Constitution of the United States, to which ruling the defendant then and there duly excepted.

VI.

The Court erred in holding that it had jurisdiction of the [18] person of the defendant or the subject matter contained in said first count of the Indictment, or of the offense, or any of the offenses, alleged to have been committed by said defendant, to which ruling the defendant duly excepted.

VII.

The Court erred in not holding that the Act under which said Indictment purports to be framed, the Act of June 25, 1910, known and referred to as the "White-slave traffic Act," is unconstitutional and

not authorized by any provision of the Constitution or the amendments thereto, to which ruling the defendant then and there excepted.

VIII.

The Court erred in holding that the allegations contained in the first count of said Indictment constituted any violation of the "White-slave traffic Act," to which ruling the defendant then and there excepted.

IX.

The Court erred in imposing sentence and judgment upon the defendant in the County Jail of Alameda County, State of California, for the term of one year, and that he be fined the sum of ————, and that he be imprisoned until the fine is paid or until he is otherwise discharged, to which defendant then and there excepted.

WHEREFORE, for the many manifest errors committed by said Court, the defendant through his attorneys prays that said sentence and judgment of conviction be reversed and for such other and further relief as the Court may think meet and proper.

Dated: September 28, 1914.

MARSHALL B. WOODWORTH,
FRANK McGOWAN,

Attorneys for Defendant. [19]

Service of within Assignment of Errors admitted this 29th day of September, 1914.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: Filed Sep. 29, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [20]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

THE UNITED STATES

vs.

HARRISON H. KEENE,

Defendant.

Order Allowing Writ of Error.

Upon motion of Frank H. McGowan and Marshall B. Woodworth, attorneys for the defendant, in the above-entitled cause, and upon filing the petition for writ of error herein,

IT IS HEREBY ORDERED that a writ of error be, and it is hereby, allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the judgment heretofore rendered herein; and other matters and things in said petition set forth; and that meanwhile all further proceedings in this Court be suspended, stayed and superseded until the determination of said writ of error by the United States Circuit Court of Appeals for the Ninth Circuit.

Dated: May 8, 1914.

M. T. DOOLING,
U. S. Judge.

Due service and receipt of a copy of the within order admitted this 9th day of May, 1914.

JNO. W. PRESTON.

[Endorsed]: Filed May 9, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [21]

Citation on Writ of Error (Copy).

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error duly issued and now on file in the Clerk's Office of the United States District Court for the Northern District of California (1st Division), wherein HARRISON H. KEENE is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable MAURICE T. DOOLING, United States District Judge for the Northern District of California, 1st Division, this 29 day of September, A. D. 1914.

M. T. DOOLING,
United States District Judge.

United States of America,—ss.

On this 29 day of September, in the year of our Lord one thousand nine hundred and fourteen, personally appeared before me, Clerk of the United States District Court for the Northern District of California, the subscriber, MARSHALL B. WOODWORTH, and makes oath that he delivered a true

copy of the within citation to Hon. JOHN W. PRESTON, United States Attorney for the Northern District [22] of California, attorney for the defendant in error.

MARSHALL B. WOODWORTH.

Subscribed and sworn to before me at San Francisco, California, this 29 day of September, A. D. 1914.

[Seal]

C. W. CALBREATH.

Deputy Clerk U. S. District Court, Northern District of California.

[Endorsed]: Filed Sep. 29, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [23]

Bond on Writ of Error.

KNOW ALL MEN BY THESE PRESENTS, That we, HARRISON H. KEENE as principal, and MARTIN ARONSOHN and E. M. HEIN, as sureties, are held and firmly bound unto the United States in the full and just sum of five hundred (\$500) dollars, to be paid to the said United States certain attorney, executors, administrators of assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 28th day of September in the year of our Lord One Thousand Nine Hundred and Fourteen.

WHEREAS, lately at a District Court of the United States, for the Northern District of California, in a suit depending in said court, between United

States of America and Harrison H. Keene a judgment was rendered against the said Harrison H. Keene and the said Harrison H. Keene having obtained from said Court a writ of error to reverse the judgment in the aforesaid suit, and a citation directed to the said United States of America, citing and admonishing it to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California.

NOW, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the said HARRISON H. KEENE shall prosecute his writ of error to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

HARRISON H. KEENE. (Seal)

MARTIN ARONSOHN. (Seal)

E. M. HEIN. (Seal)

Acknowledged before me the day and year first above written.

[Seal]

CHARLES R. HOLTON,
Notary Public in and for the City and County of
San Francisco, State of California. [24]

United States of America,
Northern District of California,—ss.

MARTIN ARONSOHN and E. M. HEIN, being duly sworn, each for himself, deposes and says: That he is a freeholder in said District, and is worth the sum of Five Hundred (\$500) Dollars, exclusive of property exempt from execution, and over and

above all debts and liabilities.

MARTIN ARONSOHN.

E. M. HEIN.

Subscribed and sworn to before me this 29 day of
Sept. A. D. 1914.

[Seal]

CHARLES R. HOLTON,
Notary Public in and for the City and County of
San Francisco, State of California.

Bond Approved:

JOHN W. PRESTON,

U. S. Attorney.

[Endorsed]: Filed Oct. 1, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [25]

**Certificate of Clerk U. S. District Court to Transcript
of Record on Writ of Error.**

I, WALTER B. MALING, Clerk of the District
Court of the United States of America for the
Northern District of California, do hereby certify
that the foregoing 25 pages, numbered from 1 to 25,
inclusive, contain a full, true and correct Transcript
of certain records and proceedings, in the Case of the
United States of America vs. Harrison H. Keene,
numbered 5421, as the same now remain on file and
of record in the office of the Clerk of said District
Court; said Transcript having been prepared pur-
suant to and in accordance with the "Praecipe,"
(copy of which is embodied in this Transcript), and
the instructions of Marshall B. Woodworth, Es-
quire, Attorney for Defendant and Plaintiff in
Error.

I further certify that the costs for preparing and certifying the foregoing Transcript on Writ of Error is the sum of Twelve Dollars and Twenty Cents (\$12.20), and that the same has been paid to me by the Attorney for the Plaintiff in Error herein.

Annexed hereto is the Original Citation on Writ of Error (pages 30 and 31), and the Original Writ of Error (pages 27 and 28) with the return of the said District Court to said Writ of Error attached thereto (page 29).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 22d day of October, A. D. 1914.

[Seal]

W. B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk. [26]

Writ of Error (Original).

UNITED STATES OF AMERICA,—ss.

The President of the United States of America, To the Honorable, the Judges of the District Court of the United States, for the Northern District of California, 1st Division, Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between United States of America, defendant in error, a manifest error hath happened, to the great damage of the said Harrison H. Keene, plaintiff in error, as by his complaint appears:

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco, in the State of California, within thirty days from the date hereof, in the said Circuit Court of Appeals, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, the 29th day of September, in the year of our Lord One Thousand, Nine Hundred and Fourteen.

W. B. MALING,
Clerk of the United States District Court, Northern
District of California.

C. W. Calbreath,
Deputy Clerk U. S. District Court, Northern Dis-
trict of California.

Allowed by

M. T. DOOLING,

U. S. Dist. Judge.

Service admitted this 29th day of September, 1914.

JNO. W. PRESTON,

U. S. Atty.

[Endorsed]: No. 5421. United States District Court, for the Northern District of California, 1st Division. Harrison H. Keene, Plaintiff in Error, vs. United States, Defendant in Error. Original Writ of Error. Filed Sep. 29, 1914. W. B. Mal-
ing, Clerk. By C. W. Calbreath, Deputy Clerk.
[28]

Return to Writ of Error.

The Answer of the Judges of the District Court of the United States of America, for the Northern District of California, to the within Writ of Error.

As within we are commanded, we certify under the seal of our said District Court, in a certain schedule to this Writ annexed, the record and all proceedings of the plaint whereof mention is within made, with all things touching the same, to the United States Circuit Court of Appeals, for the Ninth Circuit, within mentioned, at the day and place within contained.

We further certify that a copy of this Writ was on the 15th day of October, A. D. 1914, duly lodged in this Court for the within named defendant in Error.

By the Court:

[Seal]

WALTER B. MALING,
Clerk United States District Court, Northern Dis-
trict of California.

By C. W. Calbreath,
Deputy Clerk. [29]

Citation on Writ of Error (Original).

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error duly issued and now on file in the Clerk's Office of the United States District Court for the Northern District of California, 1st Division, wherein Harrison H. Keene is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable MAURICE T. DOOLING, United States District Judge for the Northern District of California, 1st Division, this 29 day of September, A. D. 1914.

M. T. DOOLING,

United States District Judge. [30]

United States of America,—ss.

On this 29th day of September, in the year of our Lord one thousand nine hundred and fourteen, personally appeared before me Clerk of the United States District Court for the Northern District of California, the subscriber, Marshall B. Woodworth, and makes oath that he delivered a true copy of the

within citation to Hon. John W. Preston, United States Attorney for the Northern District of California, attorney for the defendant in error.

MARSHALL B. WOODWORTH.

Subscribed and sworn to before me at San Francisco, California, this 29 day of September, A. D. 1914.

[Seal]

C. W. CALBREATH,
Deputy Clerk U. S. District Court, Northern District of California.

[Endorsed]: No. 5421. U. S. Circuit Court of Appeals, for the Ninth Circuit. Harrison H. Keene, Plaintiff in Error, vs. United States. Citation on Writ of Error. Filed Sep. 29, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [31]

[Endorsed]: No. 2506. United States Circuit Court of Appeals for the Ninth Circuit. Harrison H. Keene, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Northern District of California, First Division.

Received October 22, 1914.

F. D. MONCKTON,
Clerk.

Filed October 28, 1914.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals,
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.